

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #05	CCRB Case #: 202002178	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 03/02/2020 11:15 PM	Location of Incident: Resorts World Casino NYC (110-00 Rockaway Boulevard)	18 Mo. SOL 4/19/2022	Precinct: 106
Date/Time CV Reported Thu, 03/05/2020 7:53 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/17/2020 10:31 AM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Charles Senat	00520	933345	DB HATE
2. POF Shenique Rosario	26250	964261	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Peter Segerdahl	00553	934719	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Charles Senat	Force: Sergeant Charles Senat used physical force against § 87(2)(b)	
B . POF Shenique Rosario	Force: Police Officer Shenique Rosario used physical force against § 87(2)(b)	
C . SGT Charles Senat	Force: Sergeant Charles Senat restricted § 87(2)(b) breathing.	
D . SGT Charles Senat	Force: Sergeant Charles Senat used a chokehold against § 87(2)(b)	

Case Summary

On March 5, 2020, § 87(2)(b) filed this complaint with IAB via telephone, generating the original log number § 87(2)(b). On March 17, 2020, IAB forwarded this complaint to the CCRB.

On March 2, 2020, at approximately 11:15 p.m., inside the Resorts World Casino located at 110-00 Rockaway Boulevard in Queens, Sergeant Charles Senat, of the Detective Bureau Hate Crimes Task Force, executed a forcible takedown against § 87(2)(b) (**Allegation A: Force, § 87(2)(g)**). Sgt. Senat was off-duty and was working a paid detail at the casino that evening. Police Officer Shenique Rosario, of the 115th Precinct, allegedly participated in the forcible takedown by placing her hands on § 87(2)(b) back and shoving him (**Allegation B: Force, § 87(2)(g)**). PO Rosario was also working a paid detail at the casino. While bringing § 87(2)(b) to the ground, Sgt. Senat briefly placed his hand over § 87(2)(b) nose and mouth, restricting § 87(2)(b) breathing, and briefly wrapped his arms around § 87(2)(b) neck, placing § 87(2)(b) in a chokehold (**Allegations C-D: Force, § 87(2)(g) § 87(2)(b)**). § 87(2)(b) was handcuffed, escorted out of the casino, and released.

The investigation obtained CCTV footage of this incident from the casino (**Board Review 01-02, summarized at Board Review 10-11**). The nature of the incident prohibited the use of BWC as per the Patrol Guide. All references to video evidence below refer to the time-stamp in the video player, and not to any on-screen clock embedded in the footage itself.

Findings and Recommendations

Allegation (A) Force: Sergeant Charles Senat used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Shenique Rosario used physical force against § 87(2)(b)

Allegation (C) Force: Sergeant Charles Senat restricted § 87(2)(b) breathing.

Allegation (D) Force: Sergeant Charles Senat used a chokehold against § 87(2)(b)

In an unsworn telephone statement to the CCRB (**Board Review 03**), and in a later telephone interview (**Board Review 04**), § 87(2)(b) recounted that he entered the casino despite being told not to enter by casino security staff. Sgt. Senat and PO Rosario grabbed § 87(2)(b) arms he refused Sgt. Senat's verbal command to leave the premises. § 87(2)(b) verbally complained that the officers were grabbing him. Sgt. Senat and PO Rosario then placed their hands on § 87(2)(b) back and shoved him to the ground before handcuffing him. § 87(2)(b) did not report to the CCRB that the officers used any other physical force, and he did not report that Sgt. Senat restricted his breathing or placed him in a chokehold. § 87(2)(b) acknowledged that he had been drinking alcohol prior to the incident. His unusual behavior in the casino during the incident, and his inability to remember much of the incident, indicate that he was highly intoxicated.

§ 87(2)(b) recounted that he sustained pain to his knee and lower back as a result of this incident, but he failed to sign release forms permitting the CCRB to access his medical records. An AIDED report documenting § 87(2)(b) condition after he called 911 to complain about the incident (**Board Review 12**) notes that he was highly intoxicated and complaining of injuries to his leg and back.

CCTV footage of this incident (**Board Review 01-02**) captures the takedown of § 87(2)(b) from two angles. The physical struggle began approximately 90 seconds after Sgt. Senat first approached § 87(2)(b) (at approximately 1:30 in Board Review 01 and at 1:40 in Board Review 02). The footage shows that § 87(2)(b) moved away from Sgt. Senat and towards a casino staff

member as Sgt. Senat and PO Rosario attempted to pull § 87(2)(b) arms behind his back. As § 87(2)(b) continued to pull forward, Sgt. Senat swung his left arm over § 87(2)(b) shoulder and placed his left hand over § 87(2)(b) nose and mouth (**Board Review 14**). At virtually the same time, Sgt. Senat swung his right arm over § 87(2)(b) shoulder and placed his right forearm across § 87(2)(b) chest. Sgt. Senat slid his left hand off of § 87(2)(b) face and clasped his own right hand so that his arms were wrapped around § 87(2)(b) neck. Sgt. Senat's arms were in this position for less than a second as he pulled § 87(2)(b) down to the ground. During this time, Sgt. Senat's right arm momentarily made contact with the front of § 87(2)(b) neck and upper chest, constituting a chokehold (**Board Review 13**).

Sgt. Senat testified (**Board Review 05**) that casino staff informed him that § 87(2)(b) needed to be ejected from the premises. Sgt. Senat did not recall § 87(2)(b) height or build. § 87(2)(b) did not appear to be armed and was not carrying any objects, although Sgt. Senat learned from casino staff that § 87(2)(b) may have been carrying tools. Sgt. Senat assessed that § 87(2)(b) was intoxicated because he smelled of alcohol—he did not have any other indication that he was intoxicated and did not have any indication that he had consumed other substances besides alcohol. Sgt. Senat spoke to § 87(2)(b) for several minutes, during which time § 87(2)(b) yelled, gesticulated with his hands, refused repeated commands to exit the casino, and verbally threatened a member of the security staff. Sgt. Senat assessed that § 87(2)(b) actions constituted menacing and criminal trespass. Sgt. Senat ordered § 87(2)(b) to put his hands behind his back multiple times, but § 87(2)(b) did not comply. § 87(2)(b) moved towards a member of the casino security staff with his hands clenched into fists, and Sgt. Senat assessed that § 87(2)(b) appeared ready to strike the staff member.

Sgt. Senat stood behind § 87(2)(b) and wrapped his arms around § 87(2)(b) chest. Sgt. Senat's intention was to use the minimum force necessary to take § 87(2)(b) to the ground and place him in handcuffs. Sgt. Senat initially testified that he did not recall where on § 87(2)(b) chest he placed his arms. Upon reviewing video footage of the incident, Sgt. Senat testified that his arms were along § 87(2)(b) nipple line. Sgt. Senat's arms were touching § 87(2)(b) chest, but Sgt. Senat denied applying pressure with his arms.

Sgt. Senat struggled with § 87(2)(b) in this position for several seconds before successfully bringing § 87(2)(b) to the ground. § 87(2)(b) moved his torso, feet, and arms apparently in an attempt to escape from Sgt. Senat. Sgt. Senat denied wrapping his arms around § 87(2)(b) neck. Sgt. Senat testified that he did not intend for his arms to touch § 87(2)(b) neck and that he did not recall this occurring. Upon reviewing video footage of the incident, Sgt. Senat testified that he was now able to definitively state that his arms never made contact with § 87(2)(b) neck. Sgt. Senat further testified that he did not intend his hand to make contact with § 87(2)(b) face at any point, and he did not recall this ever occurring. Upon reviewing video footage of the incident, Sgt. Senat confirmed that he briefly put his hand over § 87(2)(b) face, and he testified that this had been unintentional. Sgt. Senat denied that § 87(2)(b) complained or otherwise indicated that he was experiencing difficulty breathing during the struggle.

Sgt. Senat was initially unable to describe how he brought § 87(2)(b) to the ground besides that § 87(2)(b) fell to the ground as he was attempting to move forward while Sgt. Senat was pulling him back. Upon reviewing video footage of the incident, Sgt. Senat clarified that he pulled on § 87(2)(b) using his arms and used his own body weight to bring § 87(2)(b) down. After being taken to the ground, § 87(2)(b) was handcuffed without incident.

It was not necessary to interview PO Rosario to reach dispositions for these allegations.

§ 87(2)(g)

The video footage further documented that Sgt. Senat placed his hand over § 87(2)(b) nose and mouth while attempting to bring him to the ground. § 87(2)(g)

As noted above, the investigation determined that the video footage showed that Sgt. Senat momentarily wrapped his arm around the front of § 87(2)(b) neck.

NYPD Patrol Guide Procedure 221-01 (**Board Review 06**) states that physical force may be used to ensure the safety of a member of service or third person, or when it is reasonable to place a person in custody. The reasonableness of force is assessed, in part, by the actions taken by the subject, and whether the subject is actively resisting custody. At the time of this incident, the procedure further states that members of the NYPD shall not use chokeholds. The procedure defines a chokehold as including, but not limited to, any pressure to the throat or windpipe which may prevent or hinder breathing or reduce intake of air.

§ 87(2)(b) refused repeated commands to exit the casino and attempted to pull away from the officers when they attempted to restrain him. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 07**).
- Sgt. Senat has been a member of service for 17 years and has been a subject in seven previous CCRB cases and 16 allegations, one of which was substantiated:
 - #201505716 involved a substantiated allegation of entry and search of premises against Sgt. Senat. The CCRB recommended Command Discipline A and the NYPD imposed Command Discipline A.
 - § 87(2)(g)
- PO Rosario has been a member of the NYPD for three years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of June 2, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim filed regarding this incident (**Board Review 08**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 5

Investigator:	<u>Julian Phillips</u>	<u>SI Julian Phillips</u>	<u>July 26, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>July 26, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date